

THEFT OF SERVICES
(Avoiding Payment For Transportation Services)¹
PENAL LAW 165.15(3)
(Committed on or after Sept. 1, 1967)

The (*specify*) count is Theft of Services.

Under our law, a person is guilty of Theft of Services when, with intent to obtain railroad [*or subway*] [*or bus*] [*or air*] [*or taxi*] [*or (any other) public transportation*] service without payment of the lawful charge for such service or to avoid payment of the lawful charge for such transportation service which has been rendered to him, that person avoids [*or attempts to avoid*] payment therefor by force [*or intimidation*] [*or stealth*] [*or deception*] [*or mechanical tampering*] [*or by unjustifiable failure or refusal to pay*].

The following terms used in that definition have a special meaning:

INTENT means conscious objective or purpose.² Thus, a person acts with intent to obtain railroad [*or subway*] [*or bus*] [*or air*] [*or taxi*] [*or public transportation*] service without payment of the lawful charge for such service or to avoid payment of the lawful charge for such transportation service which has been rendered to him when that person's conscious objective or purpose is to do so.

[A person ATTEMPTS to avoid payment of the lawful charge for a transportation service by force [*or intimidation*] [*or stealth*] [*or deception*] [*or mechanical tampering*] [*or by unjustifiable*

¹This statute envisions two different methods of committing the crime: one in which the defendant rides or attempts to ride without paying a fare required to be paid in advance, for example by jumping a subway turnstile; and one in which the defendant rides and then avoids or attempts to avoid paying a fare due at the end of the ride, for example by refusing to pay a taxi fare. This charge deals with the latter situation.

²See Penal Law § 15.05(1).

failure or refusal to pay] when he or she intends to do so and engages in conduct which tends to effect that objective.^{3]}

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), avoided [or attempted to avoid] payment for railroad [or subway] [or bus] [or air] [or taxi] [or (any other) public transportation] service which had been rendered to him; and
2. That the defendant did so with intent to avoid payment of the lawful charge for such transportation service.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.

³See Penal Law § 110.00.